



February 27, 2017

Mr. Jeffrey Berkowitz
83 Bennington Avenue
Freeport, New York 11520

Dear Mr. Berkowitz:

This is in response to your U.S. General Services Administration (GSA) Freedom of Information Act (FOIA) request (GSA-2017-000304), dated December 12, 2016. The request was for the portion of responsive material identified by the GSA IG in its response to FOIA request GSAIG-2017-012, "[r]equesting all the information regarding the OIG case with Caprice Electronics, 63 Flushing Ave, Brooklyn, NY 11205" and referred to our office for the portion of the IG's responsive records that originated from GSA's Federal Acquisition Service.

After reviewing the material, we are providing the responsive records that are releasable with redactions of information exempt under the Freedom of Information Act. The exemptions applicable to the redacted material are noted on the released documents. The basis for the exemptions' application are detailed below.

Intra-agency and inter-agency communications protected by the deliberative process privilege.

Certain information contained in the released documents is being withheld in part from release under Exemption 5 of the FOIA, 5 U.S.C. §552(b)(5), which pertains to information protected by the deliberative process privilege. It exempts Inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency. In this case, the exempt internal government communications contain remarks, analyses, opinions, observations, comments, options and recommendations pertaining to decisional considerations for administration of the Multiple Awards Schedules program. As such, the documents contain precisely the kind of pre-decisional, deliberative material the fifth exemption of FOIA was designed to protect from public disclosure. Segregable facts that can be released without revealing the affected agency's deliberative process are being released subject to further redactions of personal privacy information protected under Exemption 6 and commercial or financial information protected under Exemption 4. Further, where the agency has found that release of the exempt deliberative information is not against the government's interest, such information has been released.

Government information and communications protected by commercial privilege. Certain information contained in the released documents is being withheld in part from release under Exemption 5 of the FOIA, 5 U.S.C. §552(b)(5), which also pertains to information protected by

the government's commercial privilege. It exempts government information created or compiled for furthering its commercial interests that would not be available to a party in litigation with the government. In this case, sensitive information communicated with the vendor for purposes of contract administration negotiations which if released prematurely during contract administration would significant harm the government's commercial interests is exempt from release at this time.

Personal privacy information. In all records provided as partially exempt from release, individual's contact names and non-public addresses provided by offerors for communications between offeror and the agency are being withheld pursuant to Exemption 6 of the Freedom of Information Act, 5 U.S.C. §552(b)(6), which pertains to information, the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. This information includes: names, email addresses, phone numbers and contact information. We have determined that individuals' to whom this information pertains would reasonably expect that such information would not be disseminated to the general public. Further, the public interest in such information is outweighed by the privacy interest under consideration.

Proprietary information considered privileged or confidential. This denial is based on the fourth statutory exemption under FOIA, which exempts commercial or financial information obtained from a person and privileged or confidential pursuant to 5 U.S.C. § 552(b)(4). With respect to information provided **voluntarily**, such information has been withheld if it is not customarily made available to the public by its provider. With respect to information that was provided **involuntarily**, such information has been withheld if it would cause a substantial risk of competitive harm if released to the public.

The voluntarily provided information includes commercial information provided by third parties about their own business operations, competitors' activities, and industry insights that the vendor would not ordinarily disclose to the public. Disclosure would both harm the government's ability to get the information or would cause a substantial risk of competitive harm if released to the public. Therefore, the information is exempt.

With respect to involuntarily provided information, the release of internal electronic correspondence containing names, email addresses and internal tracking documents is general information that could cause commercial harm as these they documents can include reflect pricing, and insights into internal workings or strategy/customer discounting/and supply chain management. Such information would provide valuable insight to competitors, and could harm other vendor customer relationships. Therefore, this information falls within the scope of this exemption as public disclosure of this information is likely to cause substantial competitive harm to the business that furnished the information.

This determination was made independently based upon my analysis and the content of the requested records.

This completes our action on this request. Should you have any questions, please contact Dean

Gillis, 6Q1QSBABA at (816) 926-6262 or by email at dean.gillis@gsa.gov. If you need additional assistance, you may also contact our FOIA Public Liaison, Ms. Audrey Brooks at (202) 205-5912 or via email at Audrey.brooks@gsa.gov. Additionally, you may contact the Office of Government Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

Travis Lewis

Travis Lewis
FOIA Program Manager

Enclosures